THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.11558 of 2005

Dated:03.08.2007

Between:

Dulla Pedda Abbai, S/o.Veeranna.

…Petitioner

and

The Tribal Welfare Special Deputy Tahasildar,
Gangavaram Mandal, East Godavari District,
and others.

…Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.11558 of 2005

ORDER:

The petitioner is a resident of Kamarajupeta Village of Gokavaram Mandal in East Godavari District. Statedly, he is in possession of land admeasuring Acs.4.39 cents in Survey No.70 situated at Yamanapalli Village of Gangavaram Mandal in East Godavari District for more than two decades. He claims to be a tenant of Sri Avasarala Seetharamayya. On a complaint given by the first respondent, the Deputy Collector (Tribal Welfare) initiated action in L.T.R.P.No.1 of 1994 under the provisions of the Andhra Pradesh Scheduled Areas Land Transfer Regulation, 1959 (the Regulation, for brevity), for ejectment of the petitioner and Avasarala Seetharamayya. After conducting enquiry, by order, dated 18.06.1994, the Deputy Collector came to the conclusion that there is no contravention of the provisions of the Regulation. Accordingly, action was dropped. In L.T.R.P.No.1 of 1994, the suit schedule property is described as Acs.4.39 cents in Survey No.70 situated at Yamanapalli Village of Gangavaram Mandal in East Godavari District. Be that as it is, in 2004, the Special Deputy Collector (Tribal Welfare), initiated action in L.T.R.P.Nos.41 of 2004 and 54 of 2004 against one Tenali Venkateswara Rao under the Regulation. By an order dated 18.08.2004, the Special Deputy Collector, Rampachodavaram, ordered ejectment of Tenali Venkateswara Rao from the suit schedule

land therein, which is an extent of Ac.1.55 cents in Survey No.1-3 (L.T.R.P.No.54 of 2004), and Acs.2.97 cents in Survey No.1-2C (L.T.R.P.No.41 of 2004). As alleged by the petitioner, the order of the Deputy Collector in L.T.R.P.No.1 of 1994 and the order in L.T.R.P.No.41 of 2004 have become final. Nevertheless, the first respondent prepared a Dandora Report (tom-tom report) on 18.03.2005 to the effect that the petitioner has been ejected from the land admeasuring Acs.4.62 cents pursuant to the orders of the Special Deputy Collector in L.T.R.P.No.41 of 2004 and the order of the Additional Agent to Government, Rampachodavaram, in C.M.A.No.55 of 2004. Aggrieved by the same, the present Writ Petition is filed.

In the counter affidavit, the allegations made by the petitioner are not seriously denied. It is stated that the Special Deputy Collector initiated action against the fourth respondent, namely, Chirala Bapaiah Panthulu, in L.T.R.P.No.107 of 2000 in respect of the land admeasuring Acs.4.39 cents in Survey No.70, and Ac.0.24 cents in Survey No.72/2 situated at Yamanapalli Village, that the same was allowed for ejection of non-tribal, and that C.M.A.No.41 of 2004 filed by Bapaiah was dismissed by the appellate authority, and steps were taken to evict the occupant of the land. It is also stated that while preparing the Dandora Report in the printed form, the subordinate Officials, instead of mentioning C.M.A.No.41 of 2004, mentioned L.T.R.P.No.41 of 2004.

The fourth respondent got himself impleaded by reason of the orders passed by this Court on 28.11.2005 in W.P.M.P.No.25809 of 2005. Along with the said application, which was ordered, he filed an affidavit alleging that it is he, who purchased the land in Survey Nos.70 and 72/2 situated at Yamanapalli Village under an agreement of sale, dated 10.09.1966, from Avasarala Seetharamayya, that an order was passed in L.T.R.P.No.107 of 2000 against him for ejectment, that he filed C.M.A.No.41 of 2004 unsuccessfully, and that he filed a revision petition before the Government, which is pending. He also alleged that the petitioner has nothing to do with the land in Survey No.70, that the petitioner was never in possession of the land, and that by virtue of the interim orders passed by this Court, he is continuing in the land.

After hearing the learned Counsel for all the parties and perusing the counter affidavit filed by the Mandal Revenue Officer, Gangavaram Mandal, there cannot be any manner of doubt that at every stage, the revenue Officials and the Officials of Tribal Welfare Department, who were entrusted the duty to protect the economic interest of the tribals in the agency areas, did not follow the rules properly. All the Officials either were negligent or failed to be more diligent while dealing with

such matters. When L.T.R.P.No.1 of 1994 was dropped, and L.T.R.P.No.41 of 2004 was ordered for ejectment of Tenali Venkateswara Rao, curiously, by quoting the same L.T.R.P number, the petitioner is recorded as ejected. Secondly, there is no denial that it is Chirala Bapaiah Panthulu, who was the respondent in L.T.R.P.No.107 of 2000, in which the suit schedule property is again Survey Nos.70 and 72/2 situated at Yamanapalli Village. If, due to this comedy of errors committed by the Revenue/Tribal Welfare Officials, the petitioner, who claims to be the tenant of Avasarala Seetharamayya, is in possession and was able to continue in possession by reason of various orders, the same cannot be faulted. Unless and until he is evicted by due process of law either duly executing an order passed under Section 3(2) of the Regulation or by reason of the orders passed by the Government after considering the revision filed by the fourth respondent, the petitioner is entitled to continue in possession and enjoy the fruits from it. Of course, if the petitioner herein is not in possession of the land, as alleged by the learned Counsel for the fourth respondent, the land should be kept in the Government custody. Insofar as the revision petition filed by the fourth respondent against the orders in C.M.A.No.41 of 2004 (against L.T.R.P.No.107 of 2000) is concerned, if the same is still pending, the Government must expedite the disposal of the same.

The Writ Petition, with the above observations, is accordingly disposed of. No costs.

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(V.V.S.RAO, J)

03.08.2007
vs